

R3MARKS

The claims of the application have been amended so that they now set forth the essential features of applicant's claimed invention neither taught nor suggested in the prior art, namely a refueling system in which a reeled tensioned cable is employed which takes up any slack in the support of the boom. The reeled cable runs between a reel on one of the aircraft and a compliant joint on the boom to form a triangular configuration with the boom and the body of the aircraft. As pointed out in applicant's specification, this device has small interaction forces yet restrains relative motion between the boom and the drogue during the refueling operation which provides significant improvement in operation over the cited art.

The original claims were rejected over Eckstein and Eckstein in view of Mosher. Eckstein describes an aerial refueling system, which employs a hydraulic cylinder 19 to lower and retract a rigid arm 17. While there is a triangular configuration in this device formed between the cylinder, the arm and the aircraft, this is where the similarity between this reference and applicant's claimed invention. There is teaching or suggestion whatsoever in this reference of a tensioned reeled cable, which takes up any slack in the support of the boom.

The Mosher reference while it describes the use of a reeled cable, there is no teaching or suggestion of using this cable to take up slack in the support of the boom. In Mosher, the cable and reel are used to raise and lower the articulated system employed which includes legs 18 and 19 as set forth at the bottom of column 4 of the patent. There

is no suggestion whatsoever of a reeled tensioned cable for taking up slack as taught and claimed by Applicant. It is to be noted that the disclosure in col 5 that tension is maintained on the cable only refers to such tension being maintained *when the system is being lowered*, not at other times.

In view of the lack any teaching or suggestion of applicant's claimed combination in either Eckstein or Mosher, the combination of these references to anticipate applicant's claims is believed to be inappropriate.

It is well established that references cannot be combined to anticipate an invention unless there is some teaching or suggestion in one or the other of the references of the inventive combination. As pointed out in the decision of the CAFC in its decision in **AC Hospital Systems Inc. v. Montefiore Hospital et al** (221 USPQ 929) CAF 1974

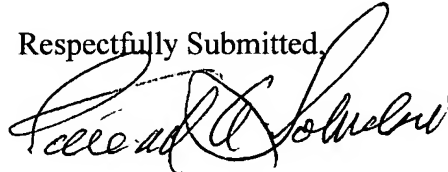
Obviousness cannot be established in combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can only be combined if there is some suggestion or incentive to do so.

Further, it is well established that hindsight cannot be relied on in finding anticipation. As stated in the decision of the CAFC in **Uniroyal, Inc. v. Rudkin-Wiley Corp.** (227 USPQ 543

When prior art references require selective combination by the Court to render obvious as subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself.

It is therefore believed that Applicant's claims are in condition for allowance and such action is respectfully requested. If the Examiner has any questions with regard to this amendment or suggestions for further amendment, it would be appreciated if he would telephone Applicant's attorney so that such matters can be expeditiously resolved.

Respectfully Submitted,



Edward A. Sokolski
Attorney for Applicant
3868 Carson Street
Torrance, CA 90503
Phone (310)-540-5631
FAX (310) 540-2699

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